

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT OF PUBLIC WORKS

ADDRESS REPLY TO:  
OFFICE OF FINANCIAL  
MANAGEMENT SERVICES  
2000 - 14TH STREET, N.W., 6TH FLOOR  
WASHINGTON, D.C. 20009  
(202) 939-8020

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Mr. Bill Nelson  
Resource Management Branch  
Property Management Division  
General Services Administration  
Room 6072  
7th and D Streets, S. W.  
Washington, DC

SEP 19 1995

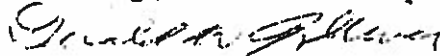
Dear Mr. Nelson

Enclosed is a copy of the 1968 DC Formal Agreement No. 2861 between the District and GSA for the design and construction of the "Highway" in the vicinity of 2nd and 3rd Streets, Constitution Avenue and D Street, NW; and DC Formal Agreement No. HT 7206 for the conveyance of land for the US Tax Court. Please contact Ms. Karen Benefield if you have any questions concerning these documents at 939-8090.

We have reviewed your draft of Supplement No. 2 to DC Formal Agreement No. 2861 for the Mall Tunnel. We find this draft acceptable, including your request to add the provision (reference item No. 6 on Supplemental No. 1) that requires the District to seek prior approval for the repair or replacement of any system that exceeds \$10,000.

On all future quarterly billing requests relating to Mall Tunnel operations, the Department of Public Works will list labor costs for; electrical, mechanical, tunnel washing and repair work separately. In addition, a copy of the original Pepco bills, provided by the DC Department of Administrative Services will be included. Please contact Richard Quammen at 939-8024 if you have any other questions concerning this matter.

Sincerely,



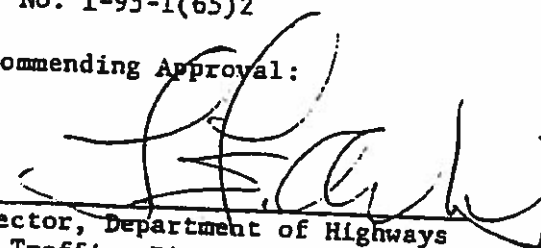
Gerald W. Tolliver  
Controller


enclosures

FAP No. I-95-1(65)2

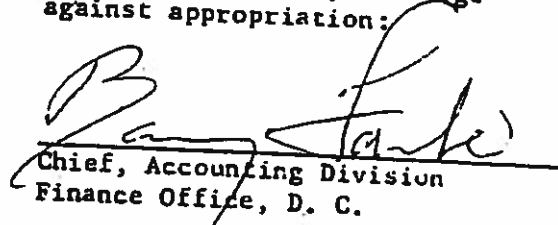
Recommending Approval:

Approved as to Form:

  
Director, Department of Highways  
and Traffic, District of Columbia

  
Assistant Corporation Counsel,  
District of Columbia

Approved as to proper charge  
against appropriation:

  
Chief, Accounting Division  
Finance Office, D. C.

2861

D. C. FORMAL AGREEMENT NO. \_\_\_\_\_

THIS AGREEMENT, made and entered into this 3rd day of May, 1968, by and between the DISTRICT OF COLUMBIA, a municipal corporation, hereinafter called "District", and the GENERAL SERVICES ADMINISTRATION, an agency of the Federal Government, hereinafter called "GSA".

WITNESSETH:

WHEREAS, the District plans, and has the authority, to proceed with the design and construction, in accordance with Federal Interstate Highway Standards, of a portion of the Center Leg of the Inner Loop of the District's Interstate Highway System, hereinafter referred to as the "Highway", in the vicinity of 2nd and 3rd Streets, Constitution Avenue and D Street, N.W. -

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which are boundary streets for Reservation 11, Square 572 and Square S-572 - as a controlled access highway tunnel facility incorporating a ventilation structure projecting above ground, including tunnel ramps to surface streets, continuing southward from Constitution Avenue as a vehicular tunnel and northward of D Street as a depressed freeway in open cut, as shown on the graphic layouts marked Exhibit "A" and Exhibit "B" attached hereto dated April 1968; and

WHEREAS, the Highway shall be further identified as that portion of the roads, ramps, ventilation structure and related systems (specifically exclusive of certain mechanical and electrical items and finish materials enumerated in Article VI Sec. 6) indicated to be in the scope of work of the GSA, U. S. Department of Labor Building, Project Number 49918 (Substructure) Phase I documents otherwise and hereinafter referred to as "Phase I"; and

WHEREAS, the prospectus for a Federal Office Building, hereinafter referred to as the "FOB", for the U. S. Department of Labor was approved by the Public Works Committees of the Congress, under the provisions of the Public Buildings Act of 1959 (73 Stat. 479); and

WHEREAS, Congress by the Act of September 6, 1966 (80 Stat. 671) appropriated funds for the construction of the substructure of the FOB and specified that such funds shall not be available for expenditure until GSA certifies to Congress that the relevant portion of the Inner Loop Freeway

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and the substructure of the FOB are coordinated in design and will be constructed as a unit; and

WHEREAS, GSA by two letters, dated October 20, 1967, addressed to the President of the Senate and to the Speaker of the House of Representatives, respectively, certified that the relevant portions of the Inner Loop Freeway and the substructure of the FOB are coordinated in design and will be constructed as a unit; and

WHEREAS, the balance of the construction necessary to complete the FOB shall be hereinafter referred to as "Phase II"; and

WHEREAS, on October 4, 1965 an agreement was reached between GSA and the District whereby the District will acquire all of the properties between 2nd and 3rd Streets, Constitution Avenue and D Street, except the McShain Building property at 333 Third Street, N. W. and that GSA will bear 50 percent of the cost of the property acquired by the District; and

WHEREAS, on March 17, 1966 the District confirmed in writing that the net proceeds from rentals of the properties acquired by the District between 2nd and 3rd Streets, Constitution Avenue and D Streets would be shared equally between the District and GSA by adjustment of the amount to be paid by GSA as its share of the acquisition and demolition cost of the properties.

WHEREAS, on January 13, 1967 the District agreed to reimburse GSA for one-third (1/3) of the cost of acquisition of the McShain property at 333 Third Street, N. W. and one-third (1/3) of the cost of demolition of the improvements thereon; and

WHEREAS, the District executed a resolution on August 31, 1967 resolving that title to property within the area of the aforementioned Reservation 11 and Squares 572 and S-572, should be conveyed to the United States in order to make it possible for the Attorney General to state in a written opinion that the United States has valid title to such property, as required by Section 355 of the Revised Statutes (40 U. S. C. 255), making the rendition of such an opinion a condition precedent to the construction by the United States of the FOB; and

WHEREAS, in order that GSA may construct the FOB on the site, the District must convey to the United States for use by GSA certain land in the site title to which is in the District; and

WHEREAS, the conditions of joint development of the Highway and the FOB have been achieved through various understandings reached by correspondence and conferences, and it is deemed desirable to set forth in one document these various understandings between GSA and the District.

NOW, THEREFORE, the parties hereto do mutually covenant and agree as follows:

ARTICLE I. FINANCIAL - DISTRICT:

The District shall have or will:

Sec. 1. Make application to the Bureau of Public Roads of the U. S. Department of Transportation, hereinafter called "Bureau", for Federal-aid funds to defray in part the cost of the Highway, and subject to approval of

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the application, proceed with design and other arrangements for the Highway.

Sec. 2. Pay, (to the extent not paid directly by GSA), all costs of acquisition and demolition of improvements on Reservation 11 including the Esso Building, Square 572 and Square S-572 excluding (McShain Building) Lot 804.

Sec. 3. Pay, either directly or by reimbursing GSA, 1/3 the costs of acquisition of Lot 804, Square S-572, and reimburse GSA 1/3 of the estimated cost of demolition of the improvements on Lot 804 in Square S-572 (McShain Building), the exact amount to be agreed upon in writing between the parties hereto.

Sec. 4. Credit towards GSA's share in the acquisition costs of the properties involved, 50 percent of the net proceeds from rentals in Square 572, in Reservation 11 and in Square S-572 exclusive of Lot 804; the exact amount to be agreed to in writing between the parties hereto. In addition, reimburse GSA for the full cost of one appraisal to be used in establishing the value of Lot 804 in Square S-572.

Sec. 5. Simultaneously with the award of the Highway-FOB construction contract, reimburse GSA the lump-sum amount of \$7,433,202 representing the District's portion of the combined Highway-FOB construction contract. This lump-sum amount equals the estimated total cost of constructing the Highway - including a ventilation structure with mechanical and electrical details,

blowers and fans, ducts, intake and exhaust registers and other necessary equipment which would have been required for one-half of the tunnel south of Constitution Avenue - had the Highway been constructed as a depressed facility in open-cut north of Constitution Avenue without the FOB.

Sec. 6. Pay the cost of services of all personnel engaged in the supervision and inspection of the construction of the Highway except as otherwise provided in ARTICLE VI, Sec. 4 herein.

Sec. 7. Reimburse GSA for GSA's cost of coordination and review of design changes to the FOB and the cost of construction changes to the Highway, due to inaccurate or invalid Highway design elements or due to changes requested by the District or by the Bureau.

Sec. 8. In the event any contractor performing work at the site for the District causes damage to any work placed or installed by GSA's contractor, the District shall either (1) require its contractor responsible for the damage to repair all such damage or (2) withhold from its contractor responsible for said damage an amount sufficient for the repair of said damage and, in such case, either arrange to have the damage repaired or reimburse GSA for the cost of having said damage repaired. In the event that it cannot be established that damage was caused by either the District's contractor or GSA's contractor, the District shall share with GSA in equal portions the cost of repairing the damage. The District shall include in all contracts, with contractors who will be working on the site, such provisions as are necessary to carry out the requirements of this section.

Sec. 9. Pay to GSA a lump-sum amount equal to the approximate cost of designing the conventional open-cut freeway and the tunnel ventilation structure that would have been required in conjunction with a conventional open-cut freeway north of Constitution Avenue, minus those design cost of engineering services for the Phase I design provided by the District's consultant. The services include but are not limited to development of horizontal and vertical control, paving, electrical, mechanical and tiling work and coordination and review of the GSA consultant's design work. The amount identified in this section is to be agreed to in writing between the parties hereto.

Sec. 10. Secure from the D. C. Transit Company a lump-sum payment representing the cost of removal of all streetcar track and the cost of all required replacement of associated pavement. Said cost will be based on field measurements of the actual quantities involved and on previously agreed unit prices specified in the February 1, 1968 letter from the Assistant Deputy Director, Bureau of Design, Engineering and Research, Government of the District of Columbia to the Assistant Commissioner for Design and Construction, GSA. When removal and replacement are complete and after receipt of payment from the D. C. Transit Company, the District will pay GSA an amount computed as specified herein.

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ARTICLE II.                      SITE-DISTRICT:

The District shall have or will:

Sec. 1. Make property surveys and prepare plats defining Reservation 11, Square S-572 exclusive of Lot 804 (McShain Building), and Square 572 in which an interest, right or title is to be granted or conveyed.

Sec. 2. Contract with independent fee appraisers for fair market values for properties in Reservation 11, Square S-572 exclusive of Lot 804 in Square 572 in which an interest, right or title is to be granted or conveyed.

Sec. 3. Acquire by taking in fee simple or through eminent domain condemnation Reservation 11 and Square 572, and by taking in part Square S-572 exclusive of Lot 804 necessary for the Highway and the FOB.

Sec. 4. Convey to the United States on a nonreimbursable basis title to all land in Reservation 11, Squares S-572 and 572 owned by the District and required for the FOB, reserving to the District a three-dimensional subsurface easement for Highway and utility purposes through and across such land, the exact area of the easement reservation to be determined by the District. The validity of title to land conveyed to the United States shall be satisfactory to the Attorney General, Department of Justice, in accordance with the requirements of 40 U. S. C. 255.

Sec. 5. Convey to the United States on a nonreimbursable basis title to land in the east end of Square 533 (Municipal Center) required

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for the FOB, reserving to the District the right of ingress and egress to the Municipal Center, and the right of use and occupancy and ingress and egress to parking facilities to be constructed within this east end of Square 533 conveyed to the United States.

Sec. 6. Vacate, close and transfer administrative jurisdiction to GSA for those portions of Indiana Avenue, C Street, Second Street and Third Street that fall within the FOB site as defined by the coordinates to be furnished by GSA and all alleys and public ways traversing Reservation 11, Squares S-572 and 572.

Sec. 7. Prepare a description of a three-dimensional subsurface easement for Highway and utility purposes for that portion of land to which title will be conveyed to or administrative jurisdiction transferred to the United States.

Sec. 8. Convey to the United States title to the land described in Sections 4 and 5, supra, sufficiently in advance of the proposed date of award of any construction contract to utilize said land to permit GSA to obtain the opinion of the Attorney General on the validity of title in accordance with the provisions of 40 U. S. C. 255.

ARTICLE III.                      DESIGN - DISTRICT:

The District shall have or will:

Sec. 1. Prepare contract plans, specifications and cost estimates for the Highway including that work necessary to complete the Highway and to develop and modify detailed estimate and final cost breakdown as

necessary for GSA concurrence.

Sec. 2. Submit to GSA the approved plans, specifications and estimates for the Highway for use in connection with GSA contracts for construction of the FOB and the Highway as a combined project.

Sec. 3. Cooperate with GSA in the preparation of plans, specifications and estimates for the Highway so as to coordinate with the design and construction of the FOB.

ARTICLE IV. CONSTRUCTION - DISTRICT:

The District shall have or will:

Sec. 1. Demolish the improvements on Reservation 11, Squares S-572 and 572 exclusive of Lot 804 (McShain Building).

Sec. 2. Provide all supervision and inspection personnel required for the Highway part of the project. The District's personnel assigned to the site, will work under the responsible Construction Engineer assigned to the project as the authorized representative of the Contracting Officer by GSA.

Sec. 3. Promptly check and recommend approval or rejection of shop drawings, including mechanical-electrical equipment lists and provide other related services for the Highway portion of the project.

Sec. 4. Construct that work required to complete the Highway such as but not limited to finishes, lighting, utilities, tunnel paving and ventilation equipment. The District will be the Contracting Officer for the work identified in this section.

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Sec. 5. Cooperate and coordinate with GSA in regard to the construction of the District tunnel and freeway work north and south of the FOB during Phase I and Phase II construction.

ARTICLE V.                      MAINTENANCE AND OPERATION - DISTRICT:

The District shall have or will upon acceptance of the completed Highway, promptly provide all operation and maintenance for the Highway including but not limited to restriping traffic lanes, altering and renewing signing, resurfacing roadways, repairing or cleaning drainage facilities, repairing the tunnel structure, inspecting and maintaining ventilation structures and equipment, maintaining tunnel lighting and traffic surveillance system, and repainting any metalwork on a schedule determined by the District. A formula for sharing the annual operating costs of the ventilation and lighting systems of the Highway will be agreed to in writing between the parties hereto.

ARTICLE VI.                      FINANCIAL - GSA:

GSA shall have or will:

Sec. 1. Request funds from the Congress for the design and construction of the FOB, pursuing every reasonable effort to obtain the additional funds and the new obligational authority required for the timely design and construction of Phase I and Phase II work as hereinbefore defined and when obtained be responsible for payment of all costs appropriate thereto.

Sec. 2. Pay (to the extent not paid directly by the District) all costs of acquisition and demolition of improvements on Lot 804 (McShain Building), of Square S-572.

Sec. 3. Reimburse the District 50 percent of the costs of acquisition of and demolition improvements on Reservation 11, Square 572 and Square S-572 exclusive of (McShain Building) Lot 804, less 50 percent of the net proceeds received from rentals of the properties in these squares and reservations, and less the full cost of one appraisal.

Sec. 4. Reimburse the District for the District's cost of coordination and review of necessary design changes to the approved Highway design due to inaccurate or invalid FOB design elements or changes to the Highway requested by GSA.

Sec. 5. Pay the additional costs, generated by the FOB in conjunction with the Highway which are mutually agreed to be over and above those costs which would have been incurred for the Highway had it been designed and constructed as a depressed facility in open-cut without the FOB, including but not limited to the costs of such items as structural columns, ventilation, lighting, tile work, additional signing and marking and special warning and communication devices.

Sec. 6. In the event any contractor performing work at the site for GSA causes damage to any work placed or installed by any contractor performing work for the District at the site, GSA shall either (1) require its contractor responsible for the damage to repair all such damage or

(2) withhold from its contractor responsible for said damage an amount sufficient for the repair of said damage and, in such case, either arrange to have the damage repaired or reimburse the District for the cost of having said damage repaired. In the event that it cannot be established that damage was caused by GSA's contractor or the District's contractor, GSA shall share with the District, in equal portions, the cost of repairing such damage. GSA shall include in all contracts with contractors who will be working on the site, such provisions as are necessary to carry out the requirements of this Section.

ARTICLE VII.                      SITE - GSA:

GSA shall have or will: . . .

Sec. 1. Convey to the District a three-dimensional sub-surface easement through and across those portions of the alleys, public ways, streets and avenues vacated by the District and through and across Lot 804 of Square S-572 as required for Highway and utility purposes, the exact area of said easement to be defined by the District.

Sec. 2. Have the right and authority to use the public space over that portion of 3rd Street, Northwest required for the FOB subject to the use of said street by the general public for the purpose of travel.

Sec. 3. Authorize and permit the District ingress and egress to, and to operate, maintain, repair, inspect, remove and replace any or all mechanical and electrical equipment located within the ventilation

structure and portions of the Highway and utilities within and immediately adjacent to the FOB.

ARTICLE VIII.                      DESIGN - GSA:

GSA shall have or will:

Sec. 1. Design the FOB and the ventilation structure, which FOB shall completely envelop the ventilation structure for the Highway, and make provision in the design of the FOB for unobstructed ingress and egress to the ventilation structure at all times.

Sec. 2. Provide as a part of the FOB design, and maintain at no cost to the District a temporary parking space area or areas and adequate parking access within the confines of the FOB and in proximity to the Municipal Center, that is approximately equal in area to parking space eliminated in the Municipal Center as a result of the FOB until such time as the underground parking area in the east end of Square 533 is completed and accepted by the District.

Sec. 3. Submit to the District for review, comment and approval the plans and specifications pertaining to the design and construction of the Highway.

ARTICLE IX.                      CONSTRUCTION - GSA:

GSA shall have or will:

Sec. 1. Demolish the improvements (McShain Building) on Lot 804 of Square S-572.

Sec. 2. Construct the combined Highway-FOB project with a reasonable time after the necessary funds have been appropriated by the Congress.

Sec. 3. For the combined Highway-FOB project, prepare necessary advertisements for bids and make awards of contracts for construction and supervise and administer the construction.

Sec. 4. Negotiate all change orders issued to the construction contractor for the combined Highway-FOB project, provided that all change orders which effect requirements applicable to the Highway shall be subject to coordination with an approval by the District. In the event GSA and the District are unable to reach an agreement, the Contracting Officer for the combined Highway-FOB project shall have the right, authority and responsibility for making a final decision, binding upon both GSA and the District, as to any matters not resolved by agreement with respect to such change order.

Sec. 5. Landscape the grounds of the FOB site comprising that part not landscaped as part of the Highway, subject to the availability of funds for such purpose.

ARTICLE X. TIME FOR COMPLETION:

Upon execution of this agreement, all phases of the Highway and of the FOB shall be given full cooperative effort in order that all work can be vigorously prosecuted to completion subject to the availability of the necessary funds and to obtaining the required new obligational authority.

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ARTICLE XI.                      GENERAL:

Sec. 1. It is understood and agreed that the Highway will be partially financed from funds appropriated by the Federal Government and expended under Federal regulations; that all plans, estimates of cost, specifications, awards of contracts, acceptance of work and procedures in general are subject at all times to all Federal laws, regulations, orders and approvals.

Sec. 2. All plats of transfers, conveyances and easements of lands shall be recorded in the Office of the Surveyor, D. C.

Sec. 3. The terms "costs of acquisition" and "acquisition costs" as used herein shall be deemed to include the costs of survey and survey plats, title evidence, appraisal, condemnation and settlement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

The Commissioner of the District of Columbia, appointed under Reorganization Plan No. 3 of 1967, having first considered and approved the foregoing Agreement, has directed the execution thereof in the name of said District of Columbia, by his Executive Secretary, who has hereto set his hand and affixed the seal of the District of Columbia hereto under authority of the Act of Congress entitled "An Act to relieve the

DISTRICT OF COLUMBIA, ss:

I, Pauline Picone, a Notary Public in and for the District of Columbia, do hereby certify that F. E. Ropshaw, who is personally well known to me as the person named as Executive Secretary to the Commissioner of the District of Columbia in the foregoing agreement bearing date on the 3rd day of May, 19 68, and hereunto annexed, personally appeared before me in said District, and as Executive Secretary aforesaid, and by virtue of the authority in him vested acknowledged the same to be the act and deed of the Commissioner of the District of Columbia.

GIVEN under my hand and seal this 3rd day of May, 19 68.

Pauline Picone  
Notary Public, D. C.

My commission expires: 11/4/73

DISTRICT OF COLUMBIA, ss:

I, Rose Beckenheimer, a Notary Public in and for the District of Columbia, do hereby certify that William A. Schmidt, who is personally well known to me as the person named as Commissioner, Public Buildings Service, General Services Administration, an Agency of the Federal Government, in the foregoing agreement bearing date on the 24th day of April, 19 68, and hereunto annexed, aforesaid, and by virtue of the authority in him vested acknowledged the same to be the act and deed of the General Services Administration.

GIVEN under my hand and seal this 24th day of April, 19 68.

Rose Beckenheimer  
Notary Public, D. C.

My commission expires: Nov. 14, 1970